

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY STATE  
BOARD OF NURSING

\_\_\_\_\_  
IN THE MATTER OF THE :  
LICENSE OF :  
 :  
**MARK D. ZLOTNICK, L.P.N.** :  
**License # 26NP06851900** :  
 :  
TO PRACTICE NURSING IN THE :  
STATE OF NEW JERSEY :  
\_\_\_\_\_

Administrative Action

**FINAL ORDER  
OF DISCIPLINE**

This matter was opened to the New Jersey State Board of Nursing ("the Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Mark D. Zlotnick ("Respondent") was issued a license to practice as a Licensed Practical Nurse in the State of New Jersey on September 24, 2012 and has been a licensee at all times relevant hereto.
2. The Board received information indicating that Respondent was arrested on June 24, 2013 by members of the Elizabeth Police Department and charged with violating N.J.S.A. 2C:35-10(a)(1) (Possession of Controlled Dangerous Substance or Analog) and N.J.S.A. 2C:33-2.1(c) (Manifest Purpose to Obtain Controlled Dangerous Substance). On or about June 27, 2013, the Board sent Respondent a letter of inquiry

requesting information about the criminal matter, his nursing practice, and his continuing education.

3. Respondent partially replied and provided copies of the municipal court complaint /summons alleging that the drug involved in the arrest was heroin.

Respondent maintained that the drugs belonged to the three (3) passengers in his car, that he did not know that his passengers had drugs on them, and that he was picking up people from a house that was under surveillance for drug distribution.

4. The Board received information indicating that on December 13, 2013, a judge of the Union County Superior Court dismissed the June 24, 2013 charges by motion of the prosecutor.

5. On or about January 29, 2014, the Board sent Respondent a second letter of inquiry again requesting information concerning Respondent's criminal matter, his nursing practice, and his continuing education, including the information that Respondent never provided in his July 2013 partial response, specifically: copies of the police report with supporting statements, accusation, indictment, plea agreement, disposition, proof of payment of any fines or fees, proof of completion of probation, name and address of current nursing employer, job title, dates of employment, shift, type of unit worked, copy of most recent performance evaluation, and all continuing education completed within the last three (3) years. The letter was mailed by certified and regular mail to Respondent's address of record. The certified mailing was returned, unclaimed. The regular mailing was not returned. No response was received.

6. On or about March 5, 2014, Respondent was emailed and asked to respond to the Board's earlier inquiries. No response was received.

7. As of May 31, 2014, Respondent's license to practice nursing was due for renewal, along with the requisite thirty (30) hours of continuing education which were required to have been completed between June 1, 2012 and May 31, 2014. Respondent permitted his license to lapse when he did not renew by the expiration date of May 31, 2014 or any time thereafter.

#### CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's inquiry constitutes a failure to cooperate with a Board investigation in violation of N.J.A.C. 13:45C-1.2 and 1.3, subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

Based upon the foregoing, a Provisional Order of Discipline was filed on June 2, 2014 seeking a suspension until Respondent fully responds to the letter of inquiry and imposing a five hundred dollar (\$500.00) civil penalty for Respondent's failure to cooperate with a Board investigation.

In addition to Respondent's failure to cooperate by providing all the information requested, Respondent's drug-related arrest involving heroin and his statement regarding the incident raise sufficient concern such that testing, monitoring, and evaluation are warranted, as a condition for continued or reinstated licensure, to evaluate whether Respondent's continued practice as a nurse may jeopardize the safety and welfare of the public pursuant to N.J.S.A. 45:1-22(f).

Lastly, pursuant to N.J.A.C. 13:37-5.3(b), a nurse shall complete a minimum of thirty (30) hours of continuing education per biennial period. A nurse shall maintain continuing education compliance documentation for a period of four (4) years after completion of the hours and shall submit such documentation to the Board upon

request. N.J.A.C. 13:37-5.3(f).

Respondent failed to demonstrate, to the satisfaction of the Board, completion of the required thirty (30) hours of continuing education for the biennial period of June 1, 2012 through May 31, 2014. In fact, as of the time of this writing, Respondent has failed to demonstrate completion of any portion of the thirty (30) hours of continuing education during that time frame. The Board, therefore, finds Respondent provisionally in violation of N.J.A.C. 13:37-5.3(b), which the Board deems professional misconduct within the intendment of N.J.S.A. 45:1-21(e) and also constitutes a violation or failure to comply with a regulation administered by the Board within the intendment of N.J.S.A. 45:1-21(h) and (l).

#### DISCUSSION

Based on the foregoing findings and conclusions, an Amended Provisional Order of Discipline seeking a suspension, two hundred and fifty dollar (\$250) civil penalty, five hundred dollar (\$500) civil penalty, and a comprehensive mental health and substance abuse evaluation under the auspices of the Board's designated intervention program – the Recovery and Monitoring Program (RAMP) -- was entered on July 15, 2014 and a copy was forwarded to Respondent's last known address by means of both regular and certified mail. The Amended Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's

request for consideration and reasons therefor.

The United States Postal Service tracking system indicates that the certified mailing of the Amended Provisional Order of Discipline was delivered in Monmouth Junction on July 18, 2014. The regular mailing of the Amended Provisional Order of Discipline was not returned. Although the record reflects that the Amended Provisional Order was served upon Respondent, no response has been received to date. Accordingly, the Board considered the matter, determined that further proceedings were not necessary and that the Amended Provisional Order should be made final by default.

Based upon Respondent's failure to renew his license by May 31, 2014, or at any time thereafter, the Board determined that modification of the Amended Provisional Order was warranted. The Amended Provisional Order was drafted while Respondent's license was still active. As Respondent had only been initially licensed on September 24, 2012, his first renewal would have been May 31, 2014. Respondent did not renew by May 31, 2014 or at any time thereafter. Any professional or occupation license not renewed within thirty days of its expiration date shall be suspended without a hearing pursuant to N.J.S.A. 45:1-7.1(b). As such, Respondent's license was automatically suspended, without a hearing, on July 1, 2014.

As Respondent has never renewed his license, his continuing education requirements have not yet become due. The Board therefore finds discipline relating to continuing education premature and unwarranted. If Respondent ever seeks reinstatement of his license, he will have to demonstrate completion of the requisite continuing education at that time.

Lastly, subsequent to the expiration of Respondent's license, the Board received

information that Respondent was arrested on July 15, 2014 by members of the Elizabeth Police Department and charged with one count of violating N.J.S.A. 2C:35-10(a)(1) (Possession of Controlled Dangerous Substance).

**ACCORDINGLY, IT IS on this** 27<sup>th</sup> **day of** July, **2015,**

**ORDERED that:**

1. Respondent's license to practice as a Licensed Practical Nurse in the State of New Jersey was administratively suspended by operation of N.J.S.A. 45:1-7.1 without a hearing on July 1, 2014. Respondent's New Jersey nursing license is hereby disciplinarily suspended until Respondent has fully responded to the Board's letter of inquiry about his June 24, 2013 arrest, provided corresponding information about his July 15, 2014 arrest, and until further Board order.

2. The Board will not entertain an application for reinstatement from Respondent unless and until Respondent completes a comprehensive mental health and substance abuse evaluation under the auspices of the Board's designated intervention program, the Recovery And Monitoring Program ("RAMP"), demonstrates that he is fit and competent to practice nursing, and that RAMP supports his return to practice. Respondent shall also demonstrate completion of all required continuing education prior to reinstatement.

3. By undergoing evaluation, Respondent expressly waives any claim of privilege or confidentiality that he may have concerning RAMP reports and disclosures to the Board, and use by the Board of that information in any proceedings.

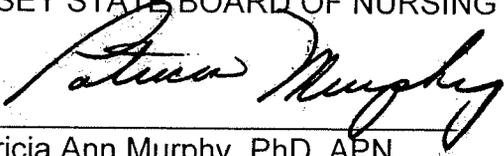
4. All costs associated with the evaluation, monitoring, and/or treatment outlined above shall be the responsibility of, and paid directly by, Respondent.

5. A civil penalty in the total amount of five hundred dollars (\$500) is imposed upon Respondent for failing to cooperate with a Board investigation. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to State Board of Nursing, Attention: Leslie Burgos, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than twenty-one (21) days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

6. The Board reserves the right to initiate disciplinary proceedings at the time of any petition for reinstatement based upon any information ultimately provided by Respondent, any new information received, the results of the evaluation, the disposition of the July 2014 arrest or any subsequent arrests.

NEW JERSEY STATE BOARD OF NURSING

By:

  
Patricia Ann Murphy, PhD, APN  
Board President